



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2020-0716]

RIN 1625-AA00

Safety Zone; Pipeline Testing; Tampa Bay, Gibsonton, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters in the navigable waters of Tampa Bay, Gibsonton, FL. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by pipeline pressure testing in the area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port St. Petersburg.

DATES: This rule is effective from 12:01 a.m. on January 1, 2021, through 7:00 a.m. on January 4, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0716 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician First Class Michael D. Shackleford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, e-mail Michael.D.Shackleford@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. The Coast Guard was unable to publish an NPRM and hold a comment period for this rulemaking due to the short time period the Captain of the Port St. Petersburg (COTP) was notified of the need for the safety zone. It is necessary for the Coast Guard to establish this safety zone by January 1, 2021, in order to ensure the appropriate level of protection exists in order to mitigate the potential safety hazards associated with pipeline pressure testing in the event of an explosion.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule for the same reasons stated in the preceding paragraph.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with pipeline pressure testing starting January 1, 2021 will be a safety concern for anyone within this safety zone in the event of an explosion. This rule is needed to protect personnel, vessels, and the marine

environment in the navigable waters within the safety zone while the testing is occurring.

IV. Discussion of the Rule

This rule establishes a safety zone from 12:00 a.m. on January 1, 2021, until 7:00 a.m. on January 4, 2021. The safety zone will cover all navigable waters of Tampa Bay, east of a line formed by connecting the points of 27°48'9" N, 082°24'56" W and 27°48'0" N, 082°24'56" W. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while pipeline pressure testing is occurring. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This area of Tampa Bay is not in a critical navigation area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires

Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately 4 days that will prohibit entry to all navigable waters of

Tampa Bay, east of a line formed by connecting the points of 27°48'9" N, 082°24'56" W and 27°48'0" N, 082°24'56" W. It is categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev.

1. A Memorandum for Record supporting this determination is available in the docket.

For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--SAFETY ZONE; PIPELINE TESTING; TAMPA BAY, GIBSONTON, FL.

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034; 46 U.S.C. 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T07-0716 to read as follows:

§ 165.T07-0716 Safety Zone; Pipeline Testing; Tampa Bay, Gibsonton, FL.

(a) *Location.* The following regulated area is a safety zone: All navigable waters of Tampa Bay, east of a line formed by connecting the points of 27°48'9" N, 082°24'56" W and 27°48'0" N, 082°24'56" W in the vicinity of Gibsonton, Florida.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(2) Designated representatives may control vessel traffic throughout the enforcement area as determined by the prevailing conditions.

(3) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the Captain of the Port St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(d) *Enforcement period.* This rule will be enforced daily from 12:01 a.m. on January 1, 2021, through 7:00 a.m. on January 4, 2021.

Dated: December 16, 2020.

Matthew A. Thompson,
Captain, U.S. Coast Guard,
Captain of the Port St. Petersburg.